IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

INCOME TAX APPEAL NO.1048 OF 2004

The Commissioner of Income Tax-8 .. Appellant.

Versus

M/s.Apjesh Impex P. Ltd. .. Respondent.

Mr.S.M. Shah with Mr.P.S. Sahadevan for the appellant.

Mr.K.B. Bhujale for the respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 30TH OCTOBER, 2007.

P.C. :

1. The revenue has preferred this appeal by formulating questions as set out in para 4 of the appeal memo. The A.O. had held the interest to be income from other sources. The Commissioner (Appeals) and the Tribunal has held the income as income from business. We, however, find that neither the Commissioner (Appeals) nor the Tribunal has recorded any finding reversing specific finding recorded by the A.O. The only basis on which the Tribunal has proceeded is on account of the assessment in previous years. On behalf of the Respondent-assessee, learned counsel points that even if it is treated as income from other sources, the tax incidence will be less than Rs.4 lakhs and as such the appeal as filed, considering the CBDT

circular, would not be maintainable.

2. After hearing counsel, in our opinion, ends of justice will be met if the order of the Tribunal is set aside and issue referred back to the Tribunal for considering the matter denovo, most specifically considering the material now placed before us by the learned counsel for the appellant setting out that the company is also carrying out financial business.

3. In the light of that, the impugned order dated 17-6-2004 is set aside and the matter is remanded back to the Tribunal for considering denovo. The appeal accordingly disposed of.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)